

protrusions) helps assist in keeping the valve closed whenever pressure within the manifold is greater than atmospheric pressure “.

Applicants' attorney respectfully disagrees with the Examiner's contentions and the conclusion he draws therefrom. Applicants' attorney respectfully suggests the Examiner has misinterpreted at least one of the references cited in the Office Action. Specifically, although the Examiner suggests or contends that Kee teaches a flap which is opened by the catheter, numerous instances throughout the specification of Kee clearly indicates that suggestion is incorrect.

The Examiner's attention is drawn to column 3, lines 38-47 of Kee. In this passage Kee states that the “flaps 20 ... are pushed back by the endotracheal tube 13 at open distal end 41, thereby forcing the tubular guide member 36 of the connector body 11 against the distal end of the protective sleeve 12, and creating an opening 21 along axis A therethrough for the catheter 3e to pass into the endotracheal tube 13.” The Examiner's attention is also directed to column 3, lines 53-58 of Kee, which states in part “[I]n the disconnected position with the endotracheal tube 13, the connector body 11 disengages and the spring 25 forces the protective sleeve 12 to slide forward so that the flaps 20 are pushed back to their naturally closed position ...” Column 3, lines 61-65 state in part that hinges 26 “operate to bias the flaps 20 to a closed position when the endotracheal tube 13 is disconnected from the adapter 10.” A reading of the above passages reveals that it is not the catheter assembly which opens or comes in contact with the flaps 20 of Kee, but rather the flaps 20 are opened when contacted by guide member 36. Further evidence of the operation of Kee is provided in column 4, lines 36-44 which state:

In connecting the adapter 10 to the endotracheal tube 13 the user, handling the gripping ribs 24 of the connector body 11, slips the outer sleeve 35 of body 11 over the endotracheal tube 13 until the tube 13 engages the distal end of the protective sleeve 12 and begins to push the sleeve 12 backward. This backward action causes the flaps 20 of the protective sleeve 12 to be forced to an open position by the leading edge of tubular guide member 36 of the connector body 11.

Still further evidence of the manner in which the flaps of Kee may be opened can be found in column 4, lines 49-52 which state “[H]inges 26 allow the flaps 20 to bend outward and create an opening when the tubular guide member 36 presses against flaps

20 by the backward motion of the protective sleeve 12 against the guide members 36." Still further instances of Kee which clearly state that it is contact with guide members 36 and not the catheter 30 which causes flaps 20 to open can be found at column 4, lines 58-61; column 4, line 66- column 5, line 3; and column 5, lines 34-38. The invention defined in Kee is clearly different from that of the present invention which provides for valve to be capable of being opened by the catheter.

In view of the numerous mentions throughout Kee which state that flaps 20 may be opened with contact from guide members 36 (and not catheter 30 as the Examiner suggests) it is Applicants' attorney contention that Kee cannot be interpreted to teach or suggest that the valve 20 is capable of being opened by the catheter 30, as there is no teaching or suggestion that anything other than guide member 36 forces the valve open nor is there any teaching or suggestion that the valve of Kee even comes in contact with the catheter. In fact, it is submitted that the disclosure of Kee teaches away from the disclosure in the present invention where the valve is capable of being opened by the catheter.

As discussed above the Kee patent fails to teach or suggest each and every element which is present in the claims of the present invention, and Schneider fails to provide a teaching or suggestion of the elements which Kee fails to teach or suggest. Where the cited references fail to teach or suggest each of the claimed elements to one skilled in the art, the rejection must fail. Accordingly, it is respectfully submitted that the Examiner's rejection of Claims 1-17, 19 and 20 should be withdrawn.

By way of the Office Action mailed January 27, 2003, the Examiner also rejected Claims 22-25 under 35 U.S.C. §103(a), as being unpatentable over Kee in view of Schneider and further in view of U.S. Patent No. 6,198,758 to Forsberg et al. (hereinafter "Forsberg" or "the '758 patent"). Again, as noted above, Claims 22-25 depend either directly or indirectly from Claim 1 and recite the present invention in varying scope. As discussed above the Kee and Schneider patents fail to teach or suggest each and every element which is present in the claims of the present invention, and Forsberg fails to provide a teaching or suggestion of the elements which Kee and Schneider fail to teach or suggest. Where the cited references fail to teach or suggest each of the claimed elements to one skilled in the art, the rejection must fail.

Again, as the Applicants have herein discussed the cited references in relation to Claim 1, Claims 22-25 are similarly distinguishable not only because of the patentability of the independent claims but also because of the combination of the subject matter of each

of the dependent claims with their independent claim which makes each claim further distinguishable, and which is not taught or suggested by the cited references, singly or in combination. Accordingly, it is respectfully submitted that the Examiner's rejection of Claims 22-25 should be withdrawn.

Applicants have carefully reviewed the art cited against the present application and amended the claims to even more clearly and patentably distinguish such claims over such art. None of the cited references, either alone or in combination, discloses a composite construction which has the same or similar distinctive combination of features as set forth and claimed in the newly amended claims and it is this combination of elements which is clearly and patentably distinguishable over the cited art. All claims are believed to be patentably distinguishable over the cited references and in allowable condition. Applicants respectfully request the rejections of the claims under 35 U.S.C. §103 be reconsidered and withdrawn in light of the preceding amendments and remarks.

For the foregoing reasons, the application and claims are believed to be in condition for allowance and such action is respectfully requested. However, should any questions arise with regard to this matter the Examiner is encouraged to contact the undersigned at (770)-587-7183. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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CERTIFICATE OF MAILING

I, William W. Letson, hereby certify that on April 10, 2003, this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

By: 

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